

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

PEACHRIDGE ENERGY
OPERATING, LLC,

Plaintiff,

v.

BASIN ENGINEERING, LLC,

Defendant.

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CIVIL ACTION NO. 4:23-cv-1426

JURY REQUESTED

DEFENDANT BASIN ENGINEERING, LLC'S
MOTION FOR LEAVE TO DESIGNATE HUGHES SPECIALITY TOOLS, INC.
AND TIM HUGHES AS RESPONSIBLE THIRD PARTIES

Defendant Basin Engineering, LLC, files this Motion for Leave to Designate Hughes Specialty Tools, Inc. and Tim Hughes (collectively "Hughes") as Responsible Third Parties:

I. RELIEF REQUESTED

Defendant seeks to have Hughes designated as Responsible Third Parties and that the jury submit Hughes' conduct to the jury for consideration of an appropriate share of responsibility for Plaintiff's alleged damages.

II. SUMMARY OF ARGUMENT

Under Texas law, a Responsible Third Party is appropriate to include on the jury charge when it can be shown that the third party caused or contributed to the harm complained of by Plaintiff. TEX. CIV. PRAC. & REM. CODE § 33.004. As such, because Hughes can be shown to have caused or contributed to the harm complained of by Plaintiff, Hughes should

be designated as a Responsible Third Party and included on the jury charge to be apportioned its share of fault for Plaintiff's harm.¹

III. BACKGROUND FACTS

Plaintiff Peachridge Energy Operating, LLC, filed this lawsuit, asserting that due to Basin's retention of Hughes to "drill out the plugs" on Dove 24-5H Well, Peachridge suffered a large loss of income due to the Bottom Hole Assembly breakage and failed recovery. Peachridge alleges this conduct caused this subject well to be unprofitable.² Further, there is a potential that Hughes Specialty Tools, Inc. is no longer an active company, so the owner of Hughes' Specialty Tools, Inc., Tim Hughes, should be designated to account for his company's actions which were performed at Tim Hughes' direction.³ As such, Hughes' Specialty Tools, Inc., and Tim Hughes are responsible in part or in whole for Plaintiff's alleged damages, as Hughes' Specialty Tools, Inc., at Tim Hughes' direction, was the company that performed the drill out, where the alleged damage occurred.

IV. ARGUMENT

Basin brings this Motion pursuant to TEX. CIV. PRAC. & REM. CODE § 33.004, in order to designate Hughes' Specialty Tools, Inc. and Tim Hughes as a Responsible Third Parties in this matter.

"The responsible-third-party provision 'applies to all common law torts and statutory torts that do not have a separate and conflicting fault allocation scheme . . . [and] applies to federal diversity cases under the Erie Doctrine, as it is state substantive law that does not conflict with Rule 14 of the Federal Rules of Civil Procedure, the closest federal procedural

¹ Peachridge's Original Petition (Dkt. 1-3, page 4) (Apr. 14, 2023).

² *Id.*

³ *Id.*

counterpart.”” *Gutierrez v. Tractor Supply Co.*, Civ. H-15-778 (S.D. Tex. Jun 20, 2018). (citing *Hernandez v. Bumbo (Pty) Ltd.*, No. 3:13-cv-1213-M, 2014 U.S. Dist. LEXIS 30392, at *3 (N.D. Tex. Mar. 10, 2014)).

Section 33.004 provides that a defendant may seek to designate a person or entity as a responsible third party by filing a motion for leave to designate that person or entity as such. The Motion must be filed on or before the sixtieth day before the trial date. The case is currently set for trial on December 16, 2024, and thus this motion is timely.

Under the current responsible third-party statute, "responsible third party" means any person who is alleged to have caused or contributed to causing in any way the harm for which recovery of damages is sought, whether by negligent act or omission, by any defective or unreasonably dangerous product, by other conduct or activity that violates an applicable legal standard, or by any combination of these. TEX. CIV. PRAC. & REM. CODE § 33.004(a).

The Court **must** grant leave to designate a responsible third party "unless another party files an objection to the motion for leave on or before the 15th day after the date the motion is served." TEX. CIV. PRAC. & REM. CODE § 33.004(f). If another party timely files an objection, the court shall grant leave to designate the person as a responsible third party unless the objecting party establishes:

- (1) the defendant did not plead sufficient facts concerning the alleged responsibility of the person to satisfy the pleading requirement of the Texas Rules of Civil Procedure; and
- (2) after having been granted leave to replead, the defendant failed to plead sufficient facts concerning the alleged responsibility of the person to satisfy the pleading requirements of the Texas Rules of Civil Procedure.

TEX. CIV. PRAC. & REM. CODE § 33.004(g).

Basin requests that the jury be asked to assess a percentage of responsibility to Hughes' Specialty Tools, Inc., and Tim Hughes pursuant to TEX. CIV. PRAC. & REM. CODE § 33.003(4), based on the assertion that their conduct caused or contributed to the harm for which Plaintiff seeks to recover damages in this case.

V. CONCLUTION AND PRAYER

Basin asks that this Court grant this Motion for Leave to Designate Responsible Third Parties, and that the acts or omissions of Hughes' Specialty Tools, Inc., and Tim Hughes be submitted to the jury for consideration of an appropriate share of responsibility. Defendant ask for all further relief to which it may be entitled.

Respectfully submitted,

LANZA LAW FIRM, P.C.



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**ATTORNEYS FOR DEFENDANT,
BASIN ENGINEERING, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document was sent to all known counsel of record via the Court's CM/ECF system on November 8, 2023.

A handwritten signature in black ink, appearing to read "Grace Cousins", written over a horizontal line.

Grace N. Cousins